

# Agenda Item Form

Agenda Date: 08/24/04

Districts Affected: ALL DISTRICTS

Dept. Head/Contact Information: DAVID DOBSON-541-4872

## Type of Agenda Item:

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Resolution                       | <input type="checkbox"/> Staffing Table Changes              | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds                         | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer                     | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection            | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input checked="" type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input type="checkbox"/> Other _____                      |  |  |

## Funding Source:

- ☒ General Fund  
☐ Grant (duration of funds: \_\_\_\_\_ Months)  
☐ Other Source: user fee

## Legal:

- ☐ Legal Review Required      Attorney Assigned (please scroll down): John Nance      ☒ Approved      ☐ Denied

Timeline Priority:   ☐ High      ☒ Medium      ☐ Low      # of days: 5

## Why is this item necessary:

To assist the El Paso Hispanic Chamber of Commerce in providing various services to the small business community of El Paso by means of an Economic Development Agreement

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

The costs for the Economic Development Agreement are coming from the General Fund with the amount already accounted for in the 2003-2004 Budget

## Statutory or Citizen Concerns:

None

## Departmental Concerns:

None

**City of El Paso  
Economic Development Department**

***MEMORANDUM***

**To:** Mayor and Council  
Jim Martinez, CAO  
William Chapman, CFO

**From:** David G. Dobson, Director *DGD*

**Subject:** El Paso Hispanic Chamber of Commerce Small Business  
Development Contract-Council Consent Agenda, August 24,  
2004

**Date:** August 18, 2004

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The adopted 2003-2004 City Budget included an allocation of \$140,000 for the purpose of funding a Small Business Development effort. The Hispanic Chamber has requested these funds to assist, counsel, and advise small businesses for the purpose of creating and retaining jobs in the City. Performance Measurement Goals for this contract are outlined in Exhibit "B" of the contract and the actual performance under the contract has been reviewed and confirmed.

During fiscal year 2003-2004, many changes have taken place in the Economic Development Department which administers the contractual relationship with the Hispanic Chamber. As a result, a formal agreement with the Hispanic Chamber has been delayed. In the meantime, the Hispanic Chamber has continued to provide small business services to the community. Our staff has reviewed the documentation in support of the provided services throughout 2003-2004.

Funds exist as allocated in the 2003-2004 Economic Development budget. Action must be taken prior to the end of the 2004 Fiscal year in order to encumber the allocation.

A proposed agreement between the City of El Paso and the Hispanic Chamber has been prepared and is recommended to City Council for approval and authorization for the Mayor to sign said agreement.

If you have any questions, please call me at 541-4872.

## **RESOLUTION**

### **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**THAT** the Mayor be authorized to sign an Economic Development Agreement with the El Paso Hispanic Chamber of Commerce for \$140,000 for Fiscal Year 2003-2004, for Economic Development assistance in the City of El Paso. This resolution is subject to the appropriate budget and documentation being submitted to the City's Deputy CAO – Financial Services.

ADOPTED this 24<sup>th</sup> day of August, 2004.

THE CITY OF EL PASO

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Joe Wardy  
Mayor

ATTEST:

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Richarda Duffy Momsen  
City Clerk

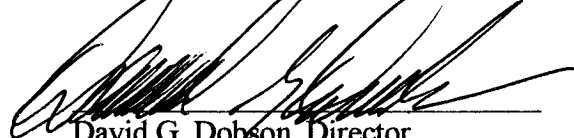
APPROVED AS TO FORM:



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John F. Nance  
Assistant City Attorney

APPROVED AS TO CONTENT:



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David G. Dobson, Director  
Economic Development Department

STATE OF TEXAS       )  
                                  )  
COUNTY OF EL PASO    )

**ECONOMIC DEVELOPMENT AGREEMENT**

**THIS** Agreement is entered into by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "City", and **THE EL PASO HISPANIC CHAMBER OF COMMERCE**, an association existing under the laws of the State of Texas, hereinafter referred to as "Contractor."

**WITNESSETH:**

**WHEREAS**, on October 4, 1994, the City entered into a Publicity and Tourism Agreement to pay Contractor \$140,000 of the money received by the City from the local hotel occupancy tax in consideration for the Contractor promoting Hispanic tourism and conventions for the visitor market from which the City derives direct tourist income benefit; and

**WHEREAS**, the services were continued for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, 2002, and 2003, pursuant to Agreements dated November 2, 1995, December 17, 1996, September 30, 1997, November 10, 1998, November 30, 1999, April 24, 2001, February 12, 2002, and April 29, 2003, respectively; and

**WHEREAS**, Contractor agrees to provide economic development services for a one-year period, and City agrees to provide funding for such services pursuant to this Agreement; and

**WHEREAS**, the City has approved, in advance, Contractor's annual budget which is attached as "Exhibit A" hereto, and incorporated herein;

**NOW, THEREFORE**, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto do mutually agree as follows:

The City and Contractor hereby agree that Contractor shall provide services described below with payment for such services being provided not to exceed the total of \$140,000 during the agreement period.

**A. DURATION**

Regardless of the date of execution, the term of this Agreement shall begin September 1, 2003, and end on August 31, 2004.

**B. SCOPE**

Contractor agrees that any and all funds paid to it by the City shall be used to assist, counsel and advise small businesses for the purpose of creating and retaining jobs in the City of El Paso. Expenditures shall be in accordance with Exhibit "A," the Entrepreneurial Development Budget 2003-2004, a copy of which is attached hereto and incorporated herein for all purposes.

**C. PERSONNEL AND FACILITIES**

The Contractor represents: (1) That it has, or will secure at its own expense, all personnel required to perform the services under this contract and that such personnel shall not be employees of or have any contractual relationship with the City; (2) That personnel whose duties include financial management or the management of money and who perform services under this contract shall be bonded by a surety acceptable to the City; and (3) That the Contractor shall provide the City with copies of all criteria for selection of personnel and shall maintain such criteria in a current condition.

Contractor shall provide such office space, equipment, supplies and other materials as may be necessary to accomplish the services outlined herein.

**D. INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by and between the parties that Contractor is hired and engaged as an independent contractor and is not an officer, agent or employee of the City.

**E. PERFORMANCE**

The Parties hereby adopt the FY 2004 Performance Measurement Goals stated in Exhibit "B," a copy of which is attached hereto and incorporated herein for all purposes. The City shall have the right to monitor performance of the contract on a periodic basis to assure compliance with the provisions of this Agreement. The Contractor will provide assistance and information needed by the City in monitoring and evaluating the performance of the Contractor in all areas of accountability. Contract Performance reports shall be submitted within 15 days after the end of each quarter to the Director of the Office of Economic Development, with copies to the Chief Financial Officer.

**F. VISITS**

The City may visit the Contractor's premises at any time for the purpose of verifying that the Contractor is in compliance with the terms of this Agreement. Request for such visit by the City shall be made for the purposes of auditing, monitoring, or evaluating any federal, state, or City regulations which apply to this program.

**G. BUDGET**

Contractor shall maintain revenue provided by the City in a separate account in accordance with the categories provided in Exhibit "A," and shall maintain complete and accurate financial records of each expenditure of such revenue. Contractor shall report quarterly to City Council on such expenditures and on request of the City Council or the Chief Financial Officer shall make the records available for inspection and review.

Funds provided by the City may be spent by the Contractor for day-to-day operations including supplies, salaries, office rental, travel expenses and other administrative costs, only if directly related to the economic development goals stated herein. The City shall have the right to audit records and review the financial status of the project and upon determination that unexpended funds will remain, shall at its sole option adjust the contract budget to reallocate such identified excess funds to other projects.

This Agreement is exclusively between the City and Contractor. Contractor shall provide to the City any and all documentation which may be required to substantiate the billings for the services provided hereunder.

#### **H. PAYMENT SCHEDULE**

Contractor must submit invoices with all applicable receipts evidencing monies that have been expended related to the services provided herein to the Chief Financial Officer for the City of El Paso. Payments will be made to Contractor on a monthly basis, and only after the submission of reimbursement requests, to be documented as provided herein, with reports of activities conducted under this Agreement. The City shall not be billed for any expenses for which Contractor is reimbursed from any other source.

#### **I. TERMINATION**

Either party may terminate this Agreement, with or without cause, upon 30 days notice to the other party. In the event of early termination, any funds hereunder advanced which have not been spent or obligated according to the budget attached hereto, must be promptly reimbursed. Upon termination of this Agreement, the Contractor shall deliver to the City all papers, work papers, and other materials which the City is required to have in its possession.

In the event that the City terminates this Agreement or, in lieu of termination continues the Agreement on the condition that certain breaches or defaults of said contract are remedied within a reasonable period of time, the City shall reserve and retain the right to demand reimbursement of funds improperly allocated or spent by Contractor. In the event Contractor requests that City substantially amend the services to be delivered, as described herein, then City has the right to terminate this Agreement. Should City so terminate this Agreement then settlement of the Agreement so terminated shall be made.

**J. NOTICES**

All notices, communications and reports under this Agreement shall be either hand-delivered or mailed, postage prepaid in the United States Postal Service, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: Joe Wardy, Mayor  
City of El Paso  
#2 Civic Center Plaza  
El Paso, Texas 79901-1196

CONTRACTOR: Cindy Ramos-Davidson, President/CEO  
El Paso Hispanic Chamber of Commerce  
201 East Main  
El Paso, Texas 79901

**K. INDEMNIFICATION**

The City shall not be subject to any obligations or liabilities of the Contractor incurred in the performance of this Agreement. The Contractor expressly agrees to indemnify and hold harmless the City from any and all liabilities and obligations incurred due to its negligence, any actions outside its scope of authority, any of its negligent acts or any omission to act, any breach of contract, or actions of the Contractor outside the scope of this Agreement.

**L. LIABILITY INSURANCE**



The Contractor shall file a Certificate of Liability Insurance that is satisfactory to the City from an insurance company licensed to do business in Texas, which refers to this Agreement by date, certifying that such insurance coverage is in effect and naming Contractor as the insured and the City of El Paso as an additional insured. Minimum coverage provided by such policy shall be \$250,000 for each person and \$500,000 for each occurrence for bodily injury or death and \$100,000 per occurrence for damage to property. Such policy shall contain a provision that it shall not be canceled without notice to the City of El Paso.

**M. REGULATIONS**

Both parties hereto agree and recognize that laws, rules and regulations related to this Agreement and performance by either party are subject to change. As such, both parties specifically agree that any of the provisions in this Agreement may be changed to bring this program or the City of El Paso into compliance with such laws, rules, and regulations. Notice of such change will be given to the other party as soon as notice is received by either party of the changes in applicable laws, rules, and regulations; however, any such changes which must take effect to bring the City of El Paso or this program into compliance with such changes will take effect as soon as is needed to comply with such changes in the laws, rules, and regulations.

**N. COVENANTS**

**(1) NO ASSIGNMENT**

Contractor shall not assign, delegate, or attempt to so convey an interest in this agreement. In the event Contractor does attempt to so convey an interest in this Agreement, said Agreement shall be terminable, at the discretion of the City, without notice to Contractor.

**(2) COMPLIANCE WITH LAWS**

Contractor shall comply with all applicable federal, state and local law including all City ordinances, codes and regulations. In particular, Contractor must file the Assurance required under the City's ordinance to prohibit discrimination against disabled persons. Failure to do so in any manner which materially impairs the quality of performance hereunder, or affects the administration of the funds provided hereunder shall constitute a material breach of this Agreement.

(3) PROHIBITED ACTS

Contractor covenants during this Agreement period that: (a) Conflict of Interest: It has had no interest in, and shall not acquire any interest, direct or indirect, in any contract or subcontract which will conflict in any manner or degree with the performance of the services performed under this Agreement. Any violation of this paragraph, with knowledge express or implied, by the Contractor shall render this Agreement voidable by the Mayor of the City of El Paso or by the El Paso City Council and shall entitle the City to appropriate reimbursement; (b) Discrimination: No person in the United States has been or will be, on the grounds of race, creed, color, national origin or sex, excluded from participation in, denied the benefits of, or subject to discrimination under, any program or activity funded in whole or in part with funds made available to the Contractor pursuant to the terms of this Agreement; (c) Discriminatory Criteria: Contractor may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, creed, color, sex or national origin, or of defeating or substantially impairing accomplishment of the objects of programs funded pursuant to this contract with respect to individuals of a particular race, color, national origin, creed or sex; (d) Prohibited Interests: No member, officer, or employee of the Contractor, or its designees or agents, or members

of the governing body of the City of El Paso, and no other public officials of the City of El Paso who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, has had any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work performed in connection with the program assisted under this Agreement.

(4) NON-RELIGIOUS ACTIVITIES

The Contractor will provide the stated services in a manner that is exclusively non-religious in nature and scope. There will be no religious services, proselytizing, instruction, or any other religious influences in connection with the stated services.

(5) ACCESSIBILITY STANDARDS:

Contractor must file the Assurance required under City Ordinance 9779, prohibiting discrimination against disabled persons. Failure to do so in any manner which impairs the quality of performance hereunder, or affects the administration of the funds provided hereunder shall constitute a breach of this Agreement. Contractor will comply with any federal law that applies to grantees of the City.

(6) SUBCONTRACTORS

None of the services covered by this Agreement shall be subcontracted without the prior written consent of the City. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them.

**O. ENTIRE AGREEMENT**

This Agreement constitutes and expresses the entire agreement of the parties hereto in reference to the services of the Contractor for the City and in reference to any of the matters herein

provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representations, and understandings relative hereto being herein merged.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in the City of El Paso on the 24<sup>th</sup> day of August, 2004.

CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

EL PASO HISPANIC CHAMBER  
OF COMMERCE

By: Cindy Ramos-Davison  
Name Printed: CINDY RAMOS-DAVISON  
Title: CEO

APPROVED AS TO FORM:

John F. Nance  
John F. Nance  
Assistant City Attorney

APPROVED AS TO CONTENT:

David Almonte  
David Almonte  
Director of OMB  
David G. Dobson  
David G. Dobson, Director  
Economic Development Department

# EXHIBIT

“A”

**EL PASO HISPANIC CHAMBER OF COMMERCE  
ENTREPRENEURIAL DEVELOPMENT BUDGET 2003-2004**

Exhibit A

ANNUAL BUDGET	Entrepreneurial Technical Assistance Centers Budget	Proposed City Funding
<b>PERSONNEL EXPENDITURES</b>		
Salaries and Wages		
Chief Administrative		
Business Manager		
Administrative Support		
Finance Administrative		
<b>TOTAL</b>	\$ 257,000.00	\$ 94,000.00
Fringe Benefits		
Social security/Medicare		
Insurance -health/dental/life		
<b>TOTAL</b>	\$ 41,000.00	\$ 15,000.00
<b>OPERATING EXPENDITURES</b>		
Office expense-administration		
Office supplies		
Postage/Mailing Svc.		
Printing/duplicating		
Professional Fees / Audit		
Supplies-miscellaneous		
Dues and Subscriptions		
<b>TOTAL</b>	\$ 35,000.00	\$ 8,400.00
Operating expenses		
Equipment Rental/Lease		
Insurance-liability		
Mileage		
Maint/repair-Equipment		
Maintenance Computers/ Website		
Communications-telephone		
Communications-long distance		
<b>TOTAL</b>	\$ 42,000.00	\$ 8,000.00
Professional Development		
Seminar/Conference		
Biz Tech and High Tech Expo		
Sponsorships		
<b>TOTAL</b>	\$ 40,000.00	\$ 9,100.00
Travel		
Nat. & State Small Business Conferences		
State Hub Training		
HC to DC Marketing Trip		
<b>TOTAL</b>	\$ 15,000.00	\$ 5,500.00
<b>CAPITAL EXPENDITURE</b>		
Data Processing		
Equipment/Network/Computers/Software		
<b>TOTAL</b>	\$ 5,000.00	\$ -
<b>TOTAL</b>	\$ 435,000.00	\$ 140,000.00

**EXHIBIT**

**“B”**

**EL PASO HISPANIC CHAMBER OF COMMERCE**  
**2003-2004 PERFORMANCE GOALS**

**Annual Goal**

**Planning**

Number of Small Businesses counseled and trained by ETA Centers	350
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**Training**

Number of businesses assisted through the Small Business Practices Training	750
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**Growth**

Number of jobs created resulting from direct business assistance through lending	150
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Number of existing jobs retained from direct business assistance through counseling	100
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Number of businesses retained as the result of government certification or other activities connected to procurement and contracting	300
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**Technology**

Number of BizTech Participants	1000
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Number of NASA Satop Requests for Technical Assistance	4
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